

CONSUMER PROTECTION COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Consumer Protection Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on **Wednesday, May 11, 2005**.

MEMBERS PRESENT:

Legislator Cameron Alden • Chairman

Legislator Jay Schneiderman • Vice•Chair

Legislator William Lindsay

Legislator Jon Cooper

MEMBER NOT PRESENT:

Legislator Lynne Nowick • Excused Absence

ALSO PRESENT:

Ma Knapp • Counsel to the Legislature

Warren Greene • Aide to Legislator Alden

Charles Gardner • Director of Consumer Affairs

Alexandra Sullivan • Chief Deputy Clerk of the Legislature

Joe Muncey • Budget Review Office

Kevin Rooney • Oil Heat Institute

MINUTES TAKEN BY:

Donna Catalano • Court Stenographer.

(* THE MEETING WAS CALLED TO ORDER AT 1:10 P.M. *)

CHAIRMAN ALDEN:

Good afternoon. Welcome to Consumer Protection Committee Meeting. We're going to have the Pledge, and we'll have it led by Legislator •• you did it before.

LEG. SCHNEIDERMAN:

I did do one today.

LEG. COOPER:

So did I. Cameron, you led us.

CHAIRMAN ALDEN:

Ryland, would you mind leading us in the Pledge.

SALUTATION

I also just traditionally ask for a moment of silence, and that's in recognition for those who have given their lives for our country and on a daily basis, unfortunately, continue to have to sacrifice their blood for the United States to keep us free.

MOMENT OF SILENCE

Thank you. I just want to note that Legislator Nowick has an excused absence. She had some senior citizens that were actually waiting for her from a prior committee that she stayed for and had that previous engagement that we all knew about. On the agenda •• Charlie, on **1037, that's a local law to require carbon monoxide detectors in connection with heating system conversions (CARACCIOLO)**. Where are we on that? Have all of your issues been addressed on that?

DIRECTOR GARDNER:

There have been ongoing discussions with my office, Legislative Counsel and the County Attorney's Office. We still •• from the office's point of view, we feel that it can be enforced. There have been some suggestions made that would spell out a few more terms and conditions a little bit more clearly. It wouldn't change the essence or the interpretation of the law. But since that latest draft that I have, I haven't seen anything new yet.

CHAIRMAN ALDEN:

So as far as you are concerned, have you been •• the issues that you raised, I know you raised a couple ••

DIRECTOR GARDNER:

Well, yes. The sections referring to penalties against consumers has been eliminated. They are gone. Contractors •• licensed contractors •• any contractor who does the work would be required to give notice to a homeowner and provide a two part form to the homeowner to be signed which acknowledges that the homeowner has received the information and understands the requirements.

CHAIRMAN ALDEN:

That's one of the things that this committee and Bill Lindsay had pointed out, why are we holding the homeowner, you know, responsible for that. I think it's a good change. Okay. So you are all right with the bill basically in its present form?

DIRECTOR GARDNER:

Yes. Yes. I mean, it would be enforced in the same way that we have been enforcing the licensing laws for a long time in that part of the licensing laws, part of the County Code, requires that licensed contractors conform to all applicable codes, rules, regulations. For instance, we don't write the Town of Smithtown Building Code. If we get a complaint either from the Town Building Department or from a consumer that shows that a contractor did something or did not do something that violates Smithtown's Building Code, that licensed contractor is liable to be issued from us and would have to attend a hearing, and his licensing status could be in jeopardy. It's just as simple regardless of whether you are in the village or town, whatever rules, regulations and codes apply to the work that you are doing, you have to follow.

CHAIRMAN ALDEN:

Okay. And actually, newly appointed Department County Attorney Gail Lolis has asked to address us on this issue also.

MS. LOLIS:

Thank you, Mr. Chairman.

CHAIRMAN ALDEN:

Now, is this the first time addressing a committee officially?

MS. LOLIS:

First time I am addressing a committee, and I am honored to address yours first.

CHAIRMAN ALDEN:

That's really neat. All right.

MS. LOLIS:

Just one minor thing, and it has to do with the enforceability that we were concerned about. Just to add to the way the resolution has been amended, that it's enforceable pursuant to whichever sections of the Code Consumer Affairs is going to enforce it, which would be the licensing provisions. That's the only fine tuning recommendation that we would recommend.

CHAIRMAN ALDEN:

Okay. My interpretation would be that, you know, that's a given. If you are submitted yourself to a license in Suffolk County that, you know, you've submitted yourself to all the rules and regulations as provided by that department. You would prefer to see it enumerated in the bill specifically?

MS. LOLIS:

Just that it sets forth how it's going to be enforced. At this point, it doesn't •• it doesn't set forth in any manner how it's going to be enforced other than the Department of Consumer Affairs will enforce it. It doesn't have a penalty provision, whether it be a fine, whether it be a ratification of license. The installer is not being notified what the penalty may be for failure to comply.

CHAIRMAN ALDEN:

I'll turn to Mea Knapp.

MS. KNAPP:

This particular bill has gone through a number of changes. Now, the only comment •• I do not

disagree with what Ms. Lolis has just said. As a matter of fact, one of my earlier versions made reference to the section of the Code that should be enforced. And I was advised by the Office of Consumer Affairs that I was tying their hands by specifying that particular section of the Code, because it applied only to licensed contractors. And he said to me that by doing that, I was allowing unlicensed contractors to violate this new local law with impunity so that the more general language that I took out the specific section of the Code and instead put in this very general language, which I believed was what Consumer Affairs told me.

DIRECTOR GARDNER:

There was two parts originally. But in the language it implied or talked about the requirement for licensed contractors to do this certain act of informing the homeowners. That was removed, because just by having that language in there, it then only applied to licensed contractors. And if you were unlicensed, well, it didn't say anything about unlicensed. So we removed that. But then we also removed 275 and 345 at the same time. See, 275 and 345 would also have the provisions in there if an unlicensed contractor did the work. Either way now, the version that exists or a little bit more •• see, by not having the text in there and talking about unlicensed contractors by referring back to 275 and 345, it would be okay. And again, then my only •• which I mentioned to the County Attorney is, if the Legislature then enacts a new licensing provision somewhere, you know, that would effect it, we would then have to come back to amend this law to include that new section.

CHAIRMAN ALDEN:

So you intend to enforce it under those sections as you just enumerated. And if there's a challenge to it, we might have to amend the law if somebody just ••

DIRECTOR GARDNER:

If, yeah. I mean, we have not yet been challenged. If we were, we would address it.

CHAIRMAN ALDEN:

Any other questions or comments?

DIRECTOR GARDNER:

I guess my feeling is that it would not hurt, it would not change the interpretation, it would not change the enforcement of the law if it's spelled out that it was, you know, part of the licensing laws of the County. I mean, it wouldn't change what we do or how we do it. And it would be a little bit more specific. If you remember the first law, we had both the sections referenced and the language about licensed contractors in two different parts of the wording of the law. And by having that wording about there about we're really only applying to licensed contractors, it didn't say anything in there about what you're going to do about an unlicensed contractor.

CHAIRMAN ALDEN:

See, luckily as an attorney now, I just have to worry about, you know, whether we pass it or not and then we leave up to our new Deputy County Attorney to enforce it for us. And if something happens then we can •• you know, in my mind, something happens to it, we lose a challenge, we can amend it and make it a little bit more specific. It's strictly a preference at this point. I'm going to make a motion to approve.

LEG. LINDSAY:

Second.

CHAIRMAN ALDEN:

I have a motion and a second, all in favor? Opposed? 1037 is **approved. (VOTE: 4•0•0•1)**
(Not present: Legis Nowick)

CHAIRMAN ALDEN:

Now, we'll go to Sense Resolutions. **Sense 26, a Sense Resolution requesting New York State Legislature to enact protections of safeguard against identity theft. (COOPER)**

LEG. COOPER:

Motion.

CHAIRMAN ALDEN:

Motion by Legislator Cooper, seconded by myself. This is something that's near and dear to all of our hearts, I think, in Suffolk County.

LEG. SCHNEIDERMAN:

This is Social Security numbers, is that the same one?

CHAIRMAN ALDEN:

New York State can come up with a whole bunch of things and help as far as on a on local level, but on, you know, a state•wide level and things like that. So it really should take ••

LEG. LINDSAY:

We asked our Health Fund to do this, and there's a problem with that, right?

CHAIRMAN ALDEN:

Well, actually, I'll talk to you later on about that. You know, we made it a little bit too narrow. There's a couple of other things that would be affected by it. So I think if we can change the language in our resolution, it's going to help, you know, solve a whole problem in Suffolk County. They might be on the way to doing that. I would hope that before they pick a new provider, that that would be part of the contract, that, you know, they have to identify people not with their Social Security number, but an ID number. So far, that hasn't been included in the RFP. So I'm hoping that that will be modified at some point. But we can fix our bill. So we have a motion and a second on Legislator Cooper's Sense 26. All in favor? Opposed? **Approved.**

(VOTE: 4•0•0•1) (Not present: Legis Nowick). Unanimously carried.

Do we have anybody else who wishes to address the committee? Seeing none, we stand adjourned then. Thank you.

(*THE MEETING WAS ADJOURNED AT 1:17 P.M.*)